



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUN 23 2003

4APT-AEEB

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ICS # 5414196

Mr. Michael McNeal  
Plant Manager  
Harbinson Walker Refractories Company  
2595 Ensley/Pleasant Grove Road  
Fairfield, Alabama 35064

SUBJ: Clean Air Act Compliance Order  
EPA Docket No. CAA-04-2003-1778

Dear Mr. McNeal:

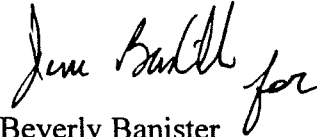
Pursuant to Section 113(a)(3) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(3), the Environmental Protection Agency (EPA) is issuing the enclosed Order, requiring Harbinson Walker Refractories Company to comply with the requirements for the Title V permitting regulations at its facility, located in Fairfield (Jefferson County), Alabama (the facility).

This Order is based on information in EPA's possession indicating that the facility has violated Section 114(a)(3) of the Act, 42 U.S.C. § 7414 (a)(3), and 40 C.F.R. § 70.6(c)(5). The regulation found at 40 C.F.R. § 70.6(c)(5) requires the permittee to periodically (but no less frequently than annually) certify that the facility is in compliance with all applicable requirements of the permit. The permittee is required to submit all compliance certifications to the Administrator as well as to the permitting authority. Any violations of the terms of the enclosed Order may subject the facility to a civil action for appropriate relief under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a). In addition, Section 113(c) of the Act provides for criminal penalties for knowing violations of an Order.

You have the opportunity to request a conference with EPA to discuss this Order before it becomes effective in accordance with 42 U.S.C. § 7413(a)(4). However, if Harbinson Walker Refractories Company does not request such a conference within seven (7) calendar days of receipt of this Order, or cannot meet with EPA within 14 calendar days of receipt of this Order, this Order shall be effective immediately upon receipt by the facility. If a conference is held

between the facility and EPA, this Order shall become effective upon the day of the conference unless otherwise agreed upon at the conference. If you have any questions or would like to meet with representatives of EPA to discuss the Order, please contact Rosalyn D. Hughes at (404) 562-9206.

Sincerely,

A handwritten signature in cursive script, appearing to read "Beverly Banister for".

Beverly Banister  
Director  
Air, Pesticides and Toxics  
Management Division

Enclosure

cc: Jim Carroll, JCDH

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF: )  
 ) Docket No. CAA-04-2003-1778  
Harbinson Walker Refractories Company )  
Fairfield, Alabama ) Proceeding Under Clean Air Act,  
 ) Section 113 (a)(3)(B)  
RESPONDENT )  
\_\_\_\_\_ )

COMPLIANCE ORDER

I. STATUTORY AUTHORITY

This Compliance Order (Order) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 113(a) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a). The Administrator has delegated this authority to the Regional Administrator of EPA Region 4, who in turn delegated it to the Director, Air, Pesticides and Toxics Management Division of EPA Region 4 (Complainant).

II. FINDINGS

1. Harbinson Walker Refractories Company (Respondent), is the owner and operator of a Part 70 source located in Fairfield (Jefferson County), Alabama, which is subject to the requirements of 40 C.F.R. Part 70, as approved by EPA for the Jefferson County Department of Health on November 15, 1997 in 60 FR 57346, and August 28, 2001, in 66 FR 452531, and Jefferson County Department of Health regulations at Chapter 18, Operating Permit Regulations for Major Sources.

2. Pursuant to 40 C.F.R. § 70.1(b), all sources subject to 40 C.F.R. Part 70 shall have a permit to operate that assures compliance by the source with all applicable requirements, as defined by 40 C.F.R. § 70.2.

3. In accordance with the requirements of 40 C.F.R. Part 70 and Jefferson County Department of Health regulations at Chapter 18, Operating Permit Regulations for Major Sources, Respondent was issued a Title V operating permit by the Jefferson County Department of Health on January 6, 1997.

4. Pursuant to Section 503(b)(2) of the Act, 42 U.S.C. § 7661b(b)(2), and 40 C.F.R. §§ 70.5(c)(9) and 70.6(c)(5), the permittee is required to periodically (but no less frequently than annually) certify that the facility is in compliance with all applicable requirements of the permit.

5. Pursuant to 40 C.F.R. § 70.6(c)(5), the permittee is required to submit all compliance certifications to the Administrator as well as to the permitting authority.

6. Pursuant to the General Permit Condition section of the Title V operating permit issued to Respondent, the compliance certification is due 30 days after the anniversary of the initial issue date to the EPA.

7. Pursuant to the General Permit Condition section of Respondent's permit, Respondent was required to submit a compliance certification for the year starting January 6, 2002 through January 6, 2003, to the Regional Administrator of EPA Region 4 by March 5, 2003.

8. According to EPA records for compliance certifications, as of June 20, 2003, Respondent had not submitted a compliance certification to the Regional Administrator of EPA, Region 4.

### III. ORDER

Based upon the findings set forth above, IT IS HEREBY ORDERED, pursuant to Section 113(a)(3)(B) of the Act, 42 U.S.C. § 7413(a)(3)(B):

9. The provisions of this Order shall apply to Respondent and its officers, agents,

servants, employees, successors, and to all persons, firms, and corporations acting under, through, or for Respondent.

10. Respondent shall submit to the Administrator of EPA Region 4, a certification of compliance with permit terms and conditions in accordance with 40 C.F.R. § 70.6(c)(5), including emission limitations, standards or work practices for the year starting January 6, 2002, and ending January 6, 2003, within 14 calendar days of receipt of this Order.

11. This Order only addresses the Respondent's responsibilities under 40 C.F.R. Part 70 and in no way affects Respondent's obligations to comply with other local, state, or federal laws and regulations.

12. If Respondent fails to comply with the above, EPA has the right to take enforcement action for failure to comply with this Order.

13. This Order is effective upon receipt by Respondent.

#### IV. ENFORCEMENT

Section 113(a) of the Act provides that EPA may take any of the following enforcement actions based upon the findings of this Order and/or failure to comply with the above Order:

- issue an administrative penalty order pursuant to Section 113(d) of the Act for civil administrative penalties of up to \$27,500 per day of violation; or
- bring a civil action pursuant to Section 113(b) of the Act for injunctive relief or civil penalties of not more than \$27,500 per day for each violation.

Furthermore, for any person who knowingly violates the provisions of the Act as set forth in Section 113(c), Section 113(c) provides for criminal penalties or imprisonment, or both. Under Section 306 of the Act, the regulations promulgated thereunder (40 C.F.R. Part 15), and

Executive Order 11738, facilities to be utilized in federal contracts, grants, and loans, must be in full compliance with the Act and all regulations promulgated thereto. Violation of the Act may result in the subject facility or other facilities owned or operated by the Respondent being declared ineligible for participation in any Federal contract, grant or loan program.

#### V. PENALTY ASSESSMENT CRITERIA

If a penalty is assessed under Sections 113(b) or (d), Section 113(e)(1) of the Act states that the Administrator or the court, as appropriate, shall, in determining the amount of penalty to be assessed, take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of non-compliance, and the seriousness of the violation.

Section 113(e)(2) of the Act allows the Administrator or the court to assess a penalty for each day of the violation. For purposes of determining the number of days of the violation, where EPA makes a prima facie showing that the conduct or events giving rise to this violation are likely to have continued or recurred past the date of this notice or any prior notice of the same violation, the days of violation shall be presumed to include the date of the notice and each and every day thereafter until Respondent establishes that continuous compliance has been achieved, except to the extent that Respondent can prove by the preponderance of the evidence that there were intervening days during which no violation occurred or that violation was not continuing in nature.

This Order does not prevent the State or EPA from assessing any penalties nor otherwise affect or limit the State's or the United States' authority to enforce under other provisions of the Act, nor affect any person's obligations to comply with a term or condition of any permit or applicable implementation plan.

#### VI. EFFECTIVE DATE

In accordance with Section 113(a)(4) of the Act, EPA is providing Respondent with an opportunity for a conference to discuss the violation which is the subject of this Order. If Respondent does not request a conference within seven (7) calendar days of receipt of this Order, or cannot meet with EPA within 14 calendar days of receipt of this Order, this Order shall be effective immediately upon receipt by Respondent. If a conference is held between Respondent and EPA Region 4, this order shall become effective upon the day of the conference unless otherwise agreed upon at the conference. The conference, if requested, will afford Respondent an opportunity to present information bearing on the findings of this Order, on any efforts Respondent has taken to achieve compliance, and on the steps Respondent proposes to take to achieve compliance.

6/23/03  
Date of Issuance

Jane Banister for  
Beverly Banister  
Director  
Air, Pesticides and Toxics  
Management Division

## CASE CONCLUSION DATA SHEET

(To be Submitted to EAD When:

- (1) Judicial Consent Decrees/Orders are Entered by Court
- (2) Administrative Penalty Settlements are Filed, Along with an Administrative Action Data Sheet
- (3) Administrative Non-Penalty Orders are Issued, Along with an Administrative Action Data Sheet)

Note: Form will be returned if this section is incomplete:

Name of Person Completing Form: Yvonne Lawson Date: 6/23/03

Signature of Program Office Supervisor or Designee: [Signature] Date: 6/24/03

### A. Case and Facility Background

1. Case Name Harbinson Walker Refractories Co.

2. REDS No. \_\_\_\_\_

3. Court Docket/Regional Hearing Clerk Docket No. CAA-04-2003-1778

4(a) EPA Lead Attorney \_\_\_\_\_

4(b) EPA Program Contact Rosalyn Hughes

11. Facility Name Harbinson Walker Refractories Co. State AL

5. Statute(s) and Section(s) Violated (NOT Authorizing Section Nor CFR):

CAA 1114(a)(3): \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

6. Authorizing Section for Administrative Actions: CAA 1113(a)(2)

7. Action Dates (Complete EITHER Administrative or Judicial):

Administrative:

Issued/Filed June 23, 2003 Final Order June 23, 2003

Judicial:

Settlement Lodged \_\_\_\_\_ Settlement Entered \_\_\_\_\_

Estimated Termination Date: \_\_\_\_\_

15. Was Alternative Dispute Resolution Used in This Action? ☐ Yes ☒ No

16. Action Type:

☐ (a) Consent Decree or Court Order Resolving a Civil Judicial Action



- ☐ (b) Administrative Penalty Order (with/without Injunctive Relief)
- ☐ (c) Superfund Administrative Cost Recovery Agreement
- ☐ (d) Federal Facility Compliance Agreement (NOT including RCRA Matters)
- ☐ (e) Field Citations
- ☒ (f) Administrative Compliance Orders
- ☐ (g) Notice of Determination (Self-Disclosure Cases)

**D. Injunctive Relief and Other Compliance Activities (Non-SEP Related)**

**Note: Penalty orders without injunctive relief and Superfund administrative cost recovery agreements SHOULD SKIP THIS SECTION.**

17. What action did violator accomplish prior to receipt of settlement/order or will take to return to compliance or meet additional requirements? This may be due to settlement/order requirements or otherwise required by statute or regulation. Include actions completed prior to the final settlement/order and actions to be taken by violator to return to compliance or meet additional requirements. Where separate penalty and/or compliance orders are issued in connection with same violation(s), report the following information for only one of those orders. Select response(s) from the following:

**Column 1:  
Actions That Result In Pollutant  
Reduction/Elimination**

(Also Complete Entire No. 19)

- ☐ Use Reduction
- ☐ Industrial Process Change  
(Includes Flow Reduction)
- ☐ Emission/Discharge Change  
(Install/Modify Controls)
- ☐ Disposal Change
- ☐ Remediation (Treatment-ex-situ, in-situ; containment)
- ☐ Removal
- ☐ RD/RA
- ☐ Restoration
- ☐ Best Management Practice  
(Includes O&M)

**Column 2:  
Actions That Result in Pollutant  
Identification**

(Also Complete Pollutant  
Column in Question No. 19)

- ☐ Storage Change
- ☐ Labeling/Manifesting
- ☐ Permit Application

**Column 3:  
Actions That Do Not Result In  
Pollutant Reduction/Elimination**

(Skip Question No. 19)

- ☐ Testing
- ☐ Auditing
- ☐ Monitoring/Sampling
- ☐ Recordkeeping
- ☒ Reporting
- ☐ Information Letter Response
- ☐ Training
- ☐ Provide Site Access
- ☐ Site Assessment/  
Site Characterization
- ☐ RI/FS or Corrective Measures  
Study
- ☐ Environmental Mgmt  
Systems
- ☐ Financial Responsibility  
Requirements
- ☐ Notification/Registration
- ☐ Planning

Other (Describe) \_\_\_\_\_

If No Injunctive Relief, Choose One : Cost Recovery ONLY \_\_\_\_\_ Penalty ONLY \_\_\_\_\_

THIS INFORMATION IS REQUIRED IF INJUNCTIVE RELIEF IS INDICATED IN QUESTION #17

18. Cost of Injunctive Relief Described in Item 17 (Actual Cost Data Supplied by Violator is Preferred Figure):

Column No. 1 Actions: \$ De Minimus AND/OR Columns No. 2 and 3 Actions: \$ \_\_\_\_\_

19. Quantitative Environmental Impact of Actions Described in Item 18:

REDUCTIONS/ELIMINATIONS:

Pollutants/Chemical Waste Stream	Annual Amount Reduced/Eliminated/Treated*	Units**	Origination Media***
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

\*Note: ICIS Rounds Calculations Automatically. Therefore, any calculation of 0.xxx will round down to zero. Please consider this when doing pollutant calculations. It may be necessary to change the unit to a smaller unit – for example from pounds to ounces.

\*\*Acceptable Units Are:

Acre Feet  
Acres (CWA)  
Cubic Feet  
Cubic Meters  
Cubic Yards  
55-Gallon Drums  
Gallons  
Grams  
Kilograms  
Linear Feet  
Liters  
Metric Tons  
Milligrams  
Milliliters  
One Million Grams  
One Thousand Gallons  
Ounces

Pounds  
Pounds Per Day  
Square Feet  
Tons

\*\*\*Acceptable Origination Media Choices Are:

Air & Radiation  
Drinking Water  
Groundwater  
Land  
Landfill  
Liquid  
Multi-Media  
Pesticides & Toxic Substances  
Sediment  
Sludge Lagoon  
Soil  
Solid Waste  
Surface Water  
Water  
Wetlands

Has EPA Taken Previous Formal Enforcement Action Regarding These Violations? (Does Not Include NOV's)

☐ Yes ☒ No

If Yes, Docket Numbers of Previous Actions: \_\_\_\_\_

### E. Supplemental Environmental Project (SEP) Information

20. Categories of SEPs (Check all appropriate categories. If no, proceed to #25)

☐ (a) Public Health

☐ (b) Pollution Prevention

☐ (1) Equipment/Technology Modifications

☐ (2) Process/Procedure Modifications

☐ (3) Product Reformulation/Redesign

☐ (4) Raw Material Substitution

☐ (5) Improved Housekeeping/O&M/Training/Inventory Control

☐ (6) In-Process Recycling

☐ (7) Energy Efficiency/Conservation

☐ (c) Environmental Restoration and Protection

☐ (d) Assessments and Audits

☐ (e) Environmental Compliance Promotion

☐ (f) Emergency Planning and Preparedness

☐ (g) Other SEP Category (Specify) \_\_\_\_\_

21. SEP Description \_\_\_\_\_

22. Cost of SEP. Cost Calculated by the PROJECT Model is Preferred. \$ \_\_\_\_\_

23. Is Environmental Justice Addressed by SEP? ☐ Yes ☐ No

24. Quantitative Environmental Impact of SEP:

Pollutants/Chemical Waste Stream	Annual Amount Reduced/Eliminated/Treated*	Units**	Origination Media***
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

NOTE: See lists of acceptable units and medias on page 3 of this form.

**F. Penalty Information** (If there is no penalty, enter 0 and proceed to #27)

25(a) Assessed Penalty \$ \_\_\_\_\_

25(b) (If Shared) Federal Share \$ \_\_\_\_\_

25(c) (If Shared) State or Local Share \$ \_\_\_\_\_

26. For Multi-Media Actions, Federal Amounts by Statute:

Statute	Amount
_____	\$ _____
_____	\$ _____
_____	\$ _____

**G. Cost Recovery**

27. Amount of Cost Recovery Awarded:

\$ \_\_\_\_\_ EPA Share

\$ \_\_\_\_\_ State and/or Local Government Share

\$ \_\_\_\_\_ Other

Was this an overfile action? \_\_\_\_Yes XNo

(Overfiling occurs when (1) a state/local delegated or approved program has taken no action or an inadequate action to address a violation at a facility; AND (2) EPA takes an enforcement action against the same facility for the same violation; AND (3) the state has not joined with EPA in the EPA action nor asked EPA to bring the action.)

**FOR SELF-DISCLOSURE CASES ONLY**  
(COMPLETE ONLY IF FACILITY SELF-DISCLOSED VIOLATIONS)

**H. Self-Disclosure Information**

Did Company Self-Disclose Violations? ☐ Yes ☐ No

Date of Disclosure: \_\_\_\_\_

Was the Disclosure Resolved Under: ☐ Audit Policy ☐ Small Business Policy

If Resolved Under Small Business Policy, Provide SIC Code: \_\_\_\_\_

Was Disclosure Referred by Another Region or HQ? ☐ Yes ☐ No

If Yes, What Office? \_\_\_\_\_

Was Disclosure Part of Compliance Incentive Program? ☐ Yes ☐ No

If Yes, Choose All That Apply

- |  |  |
|--|--|
| <input type="checkbox"/> Bakers CFC Partnership Program          | <input type="checkbox"/> Prisons Program                           |
| <input type="checkbox"/> CMOM POTW Program                       | <input type="checkbox"/> Storage Tank Emission Reduction Program   |
| <input type="checkbox"/> Colleges & Universities Program         | <input type="checkbox"/> Stormwater/Commercial Development Program |
| <input type="checkbox"/> Grain Processing Program                | <input type="checkbox"/> Telecommunications Incentive Program      |
| <input type="checkbox"/> Industrial Organic Chemical Program     | <input type="checkbox"/> Wood Treaters Program                     |
| <input type="checkbox"/> Lead Disclosure Program                 |  |
| <input type="checkbox"/> National Iron & Steel Incentive Program |  |
| <input type="checkbox"/> Oil & Gas Program                       |  |

Number of Facilities Associated With This Disclosure? \_\_\_\_\_

Any Outstanding Issues? ☐ Yes ☐ No (If yes, please describe): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Penalty Information:**

Penalty Calculation Before Mitigation: \$ \_\_\_\_\_

% or Amount of Gravity-Based Penalty Waived: \_\_\_\_\_% OR \$ \_\_\_\_\_

Gravity-Based Penalty Assessed: \$ \_\_\_\_\_

Economic Benefit Assessed: \$ \_\_\_\_\_

**Rationale for Not Applying Disclosure Policy:**

☐ No Violation Occurred

☐ Not a Systematic  
Discovery

☐ Discovery Not Voluntary

☐ Disclosure Not Prompt

☐ Entity Had Repeat Violations

☐ Agreement or Order  
Violated

☐ Violation(s) Not Corrected Expeditiously

☐ Discovery & Disclosure  
Not Independent

☐ Cooperation Insufficient

☐ Actual Serious Harm or  
Imminent &  
Substantial Endangerment

☐ Federal Facility That Would Not Be Liable for a Penalty

**Note: Question Numbers Correspond with the Case Conclusion Data Sheet Training Booklet, Dated November 2000.**

**If You Have Any Questions, Please Contact Teresa Shirley-Wright at 2-9647 or Priscilla Johnson at 2-9614.**



**HARBISON WALKER REFRACTORIES**

9/11/2013

ALD000737494  
# EPA-R4-2013-009725 SELECTED DOCUMENTS (Doc Date Order)

<u>DOC DATE</u>	<u>DOCID</u>	<u>PAGES</u>	<u>TITLE SUBJECT</u>
08/01/1980	10944637	124	[REDACTED] PRELIMINARY REASSESSMENT.PA PROJECT MANAGEMENT SUMMARY.PRELIMINARY ASSESSEMENT, SITE MAINTENANCE FORM.

Number of Documents: 1

Number of Pages: 124